

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN SENATE APRIL 23, 2003

AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 967

Introduced by Senator Burton

**(Coauthors: Senators Brulte, Johnson, McPherson, Scott, and
Vasconcellos)**

(Coauthors: Assembly Members Firebaugh, *Strickland*, and Wesson)

February 21, 2003

An act to amend Sections 94739, 94800, 94802, ~~and 94905~~ *94901*, *94905*, *and 94945* of, to amend and renumber Section 94740.1 of, and to add Sections 94740.3 and 94740.5 to, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 967, as amended, Burton. Postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989: regionally accredited institutions.

Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act excludes from the definition of private postsecondary educational institutions subject to regulation under its provisions for-profit institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the

Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC), if the institution exclusively confers degrees upon the completion of a course of study of ~~two~~ 2 or more years. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. Numerous terms are defined for the purposes of the act.

This bill would modify that definitional exclusion to exclude all for-profit institutions accredited by WASC.

The bill would define “non-WASC regional accrediting agency” and “non-WASC regionally accredited institution” for the purposes of the act.

~~The bill would require the bureau to report to the Legislature its findings and recommendations relative to institutions that have secured institutional or programmatic approval.~~

The bill would require a non-WASC regionally accredited institution to include, in its application to operate in this state, a copy of the certificate of accreditation issued by the non-WASC regional accrediting agency. The bill would require the bureau to determine that a non-WASC regionally accredited institution meets prescribed requirements before granting the institution approval to issue degrees. *The bill would require the bureau to include, in an annual report to the Legislature and the California Postsecondary Education Commission that is required under existing law, its findings and recommendations relative to institutions that have secured institutional or programmatic approval pursuant to this provision.*

The bill would also make related technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 94739 of the Education Code is
- 2 amended to read:
- 3 94739. (a) “Private postsecondary educational institution”
- 4 means any person doing business in California that offers to
- 5 provide or provides, for a tuition, fee, or other charge, any
- 6 instruction, training, or education under any of the following
- 7 circumstances:



1 (1) A majority of the students to whom instruction, training, or
2 education is provided during any 12-month period is obtained
3 from, or on behalf of, students who have completed or terminated
4 their secondary education or are beyond the age of compulsory
5 high school attendance.

6 (2) More than 50 percent of the revenue derived from providing
7 instruction, training, or education during any 12-month period is
8 obtained from, or on behalf of, students who have completed or
9 terminated their secondary education or are beyond the age of
10 compulsory high school attendance.

11 (3) More than 50 percent of the hours of instruction, training,
12 or education provided during any 12-month period is provided to
13 students who have completed or terminated their secondary
14 education or are beyond the age of compulsory high school
15 attendance.

16 (4) A substantial portion, as determined by the council, by
17 regulation, of the instruction, training, or education provided is
18 provided to students who have completed or terminated their
19 secondary education or are beyond the age of compulsory high
20 school attendance.

21 (b) The following are not considered to be private
22 postsecondary educational institutions under this chapter:

23 (1) Institutions exclusively offering instruction at any or all
24 levels from preschool through the 12th grade.

25 (2) Institutions offering education solely avocational or
26 recreational in nature, and institutions offering this education
27 exclusively.

28 (3) Institutions offering education sponsored by a bona fide
29 trade, business, professional, or fraternal organization, solely for
30 that organization's membership.

31 (4) Postsecondary or vocational educational institutions
32 established, operated, and governed by the federal government or
33 by this state, or its political subdivisions.

34 (5) Institutions offering continuing education where the
35 institution or the program is approved, certified, or sponsored by
36 any of the following:

37 (A) A government agency, other than the bureau, that licenses
38 persons in a particular profession, trade, or job category.

1 (B) A state-recognized professional licensing body, such as the
2 State Bar of California, that licenses persons in a particular
3 profession, trade, or job category.

4 (C) A bona fide trade, business, or professional organization.

5 (6) A nonprofit institution owned, controlled, and operated and
6 maintained by a bona fide church, religious denomination, or
7 religious organization comprised of multidenominational
8 members of the same well-recognized religion, lawfully operating
9 as a nonprofit religious corporation pursuant to Part 4
10 (commencing with Section 9110) of Division 2 of Title 1 of the
11 Corporations Code, if the education is limited to instruction in the
12 principles of that church, religious denomination, or religious
13 organization, or to courses offered pursuant to Section 2789 of the
14 Business and Professions Code, and the diploma or degree is
15 limited to evidence of completion of that education, and the
16 meritorious recognition upon which any honorary degree is
17 conferred is limited to the principles of that church, religious
18 denomination, or religious organization. Institutions operating
19 under this paragraph shall offer degrees and diplomas only in the
20 beliefs and practices of the church, religious denomination, or
21 religious organization. The enactment of this paragraph expresses
22 the legislative intent that the state shall not involve itself in the
23 content of degree programs awarded by any institution operating
24 under this paragraph, as long as the institution awards degrees and
25 diplomas only in the beliefs and practices of the church, religious
26 denomination, or religious organization. Institutions operating
27 under this paragraph shall not award degrees in any area of
28 physical science. Any degree or diploma granted in any area of
29 study under these provisions shall contain on its face, in the written
30 description of the title of the degree being conferred, a reference
31 to the theological or religious aspect of the degree's subject area.
32 Degrees awarded under this paragraph shall reflect the nature of
33 the degree title, such as "associate of religious studies," or
34 "bachelor of religious studies," or "master of divinity" or
35 "doctor of divinity." The use of the degree titles "associate of
36 arts" or "associate of science," "bachelor of arts" or "bachelor
37 of science," "master of arts" or "master of science," or "doctor
38 of philosophy" or "Ph.D." shall only be awarded by institutions
39 approved to operate under Article 8 (commencing with Section
40 94900) or meeting the requirements for an exemption under



1 Section 94750. The enactment of this paragraph is intended to
 2 prevent any entity claiming to be a nonprofit institution owned,
 3 controlled, and operated and maintained by a bona fide church,
 4 religious denomination, or religious organization comprised of
 5 multidenominational members of the same well-recognized
 6 religion, lawfully operating as a nonprofit religious corporation
 7 pursuant to Part 4 (commencing with Section 9110) of Division 2
 8 of Title 1 of the Corporations Code, from marketing and granting
 9 degrees or diplomas that are represented as being linked to their
 10 church, religious denomination, or religious organization, but
 11 which, in reality, are degrees in secular areas of study. An
 12 institution operating under this paragraph shall file annually with
 13 the council evidence to demonstrate its status as a nonprofit
 14 religious corporation under the Corporations Code. A college or
 15 university operating under this paragraph shall file annually with
 16 the council evidence to demonstrate its status as a nonprofit
 17 religious corporation under the ~~Corporation~~ Corporations Code.

18 (7) (A) Public institutions accredited by the Accrediting
 19 Commission for Senior Colleges and Universities or the
 20 Accrediting Commission for Community and Junior Colleges of
 21 the Western Association of Schools and Colleges.

22 (B) Institutions accredited by the Accrediting Commission for
 23 Senior Colleges and Universities or the Accrediting Commission
 24 for Community and Junior Colleges of the Western Association of
 25 Schools and Colleges that are incorporated and lawfully operating
 26 as a nonprofit public benefit corporation pursuant to Part 2
 27 (commencing with Section 5110) of Division 2 of Title 1 of the
 28 Corporations Code and that are not managed by any entity for
 29 profit.

30 (C) For-profit institutions accredited by the Accrediting
 31 Commission for Senior Colleges and Universities or the
 32 Accrediting Commission for Community and Junior Colleges of
 33 the Western Association of Schools and Colleges.

34 (D) Institutions accredited by the Western Association of
 35 Schools and Colleges that do not meet all of the criteria in
 36 subparagraph (B) and that are incorporated and lawfully operating
 37 as a nonprofit public benefit corporation pursuant to Part 2
 38 (commencing with Section 5110) of Division 2 of Title 1 of the
 39 Corporations Code, that have been in continuous operation since
 40 April 15, 1997, and that are not managed by any entity for profit.

1 Notwithstanding this subdivision, institutions that meet the
2 criteria in this subparagraph shall be subject to Section 94831,
3 except subdivision (c) of that section, and Sections 94832, 94834,
4 94838, and 94985.

5 SEC. 2. Section 94740.1 of the Education Code is amended
6 and renumbered to read:

7 94740.7. “Registered,” “registered institution,” or
8 “registered educational service” means any individual or
9 organization that offers an educational service and is registered to
10 operate under Article 9.5 (commencing with Section 94931).

11 SEC. 3. Section 94740.3 is added to the Education Code, to
12 read:

13 94740.3. “Non-WASC regional accrediting agency” means
14 a regional accrediting agency, other than the Western Association
15 of Schools and Colleges, recognized by the United States
16 Department of Education as possessing similar quality and rigor
17 in accreditation standards, and limited to the following:

18 (a) Middle States Association of Colleges and Schools,
19 Commission on Higher Education.

20 (b) New England Association of Schools and Colleges,
21 Commission on Institutions of Higher Education.

22 (c) North Central Association of Colleges and Schools, The
23 Higher Learning Commission.

24 (d) Northwest Association of Schools and of Colleges and
25 Universities, Commission on Colleges and Universities.

26 (e) Southern Association of Colleges and Schools,
27 Commission on Colleges.

28 SEC. 4. Section 94740.5 is added to the Education Code, to
29 read:

30 94740.5. “Non-WASC regionally accredited institution”
31 means a degree-granting institution that has been accredited by
32 one of the non-WASC regional accrediting agencies listed in
33 Section 94740.3. It does not include any of the following:

34 (a) An institution within the meaning of paragraph (7) of
35 subdivision (b) of Section 94739 that has been accredited by the
36 Accrediting Commission for Senior Colleges and Universities or
37 the Accrediting Commission for Community and Junior Colleges
38 of the Western Association of Schools and Colleges.

39 (b) An institution that has provisional accreditation.

40 (c) An institution that has applied for accreditation.

(d) An institution that is identified by an accrediting agency as a candidate for accreditation.

SEC. 5. Section 94800 of the Education Code is amended to read:

94800. All institutions approved under this chapter shall be maintained and operated, or in the case of a new institution, shall demonstrate that it will be maintained and operated, in compliance with all of the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That upon satisfactory completion of training, the student is given an appropriate degree, diploma, or certificate by the institution, indicating that the course or courses of instruction or the program or programs of instruction or study have been satisfactorily completed by the student.

(c) That the institution provides instruction as part of its educational program. Instruction shall include any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

~~(d) The bureau shall annually report to the Legislature its findings and recommendations relative to institutions that have secured institutional or programmatic approval pursuant to this section.~~

SEC. 6. Section 94802 of the Education Code is amended to read:

94802. (a) Each institution desiring to operate in this state shall make application to the bureau, upon forms to be provided by the bureau. The application shall include, as a minimum, at least all of the following:

(1) A catalog published, or proposed to be published, by the institution containing the information specified in the criteria adopted by the bureau. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) The name and California address of a designated agent upon whom any process, notice, or demand may be served.

(6) The information specified in Section 94808.

(7) The institution's most current financial report as described in Section 94806.

(8) An application submitted by a ~~non-Wase~~ non-WASC regionally accredited institution, as defined in Section 94740.5, shall include a copy of the certificate of accreditation issued by the non-WASC regional accrediting agency, as defined in Section 94740.3.

(b) Each application shall be signed and certified under oath by the owners of the school or, if the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the corporate officers or their designee.

(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Article 8 (commencing with Section 94900) and Article 9 (commencing with Section 94915), and any investigation of the applicant as the bureau deems necessary or appropriate, the bureau either shall grant or deny approval to operate to the applicant.

SEC. 7. *Section 94901 of the Education Code is amended to read:*

94901. (a) ~~The council~~ (1) *Except as provided in Section 94905, the bureau* shall conduct a qualitative review and assessment of the institution. It also shall conduct a qualitative review and assessment of all programs offered except continuing education programs and programs that are exclusively avocational or recreational in nature. The review shall include the items listed in subdivision (b) of Section 94900, through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the ~~council~~ bureau for that purpose.

~~An~~

(2) *An* institution may include some or all of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The satellites or branches included in either an initial or renewal application shall be considered by the ~~council~~ bureau to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter.

~~The~~

(3) *The* application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for those multisite and multiprogram reviews. If the application is for renewal of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the ~~council~~ *bureau*. Fees for renewal applications will be based on the actual costs involved in the administrative review process.

(b) The number of sites inspected by the ~~council~~ *bureau* as part of its review process shall be subject to the following considerations:

(1) If the application for approval includes branches and satellites, the ~~council~~ *bureau* shall inspect each branch and may inspect any satellite campus.

(2) If the application is for approval to operate a branch or a satellite, the ~~council~~ *bureau*, in addition to inspecting the branch or satellite, also may inspect the institution operating the branch or satellite campus.

(c) The ~~council~~ *bureau* may waive or modify the onsite inspection for institutions offering home study or correspondence courses. The visiting committee shall be impaneled by the ~~council~~ *bureau* within 90 days of the date of the receipt of a completed application, and shall be composed of educators, and other individuals with expertise in the areas listed in subdivision (b) of Section 94900, from degree-granting institutions legally operating within the state. Within 90 days of the receipt of the visiting committee's evaluation report and recommendations, or any reasonable extension of time not to exceed 90 days, the ~~council~~ *bureau* shall take one of the following actions:

(1) If the institution is in compliance with this chapter, and has not operated within three years before the filing of the application in violation of this chapter then in effect, the bureau may grant an approval to operate not to exceed five years.

(2) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation of this chapter then in effect, or if the ~~council~~ *bureau* determines that an unconditional grant of approval to operate is not in the public interest, the ~~council~~ *bureau* may grant a conditional approval to operate subject to whatever restrictions the ~~council~~

1 *bureau* deems appropriate. The ~~council~~ *bureau* shall notify the
2 institution of the restrictions or conditions, the basis for the
3 restrictions or conditions, and the right to request a hearing to
4 contest them. Conditional approval shall not exceed two years.

5 (3) The ~~council~~ *bureau* may deny the application. If the
6 application is denied, the ~~council~~ *bureau* may permit the institution
7 to continue offering the program of instruction to students already
8 enrolled or may order the institution to cease instruction and
9 provide a refund of tuition and all other charges to students.

10 (d) When evaluating an institution whose purpose is to advance
11 postsecondary education through innovative methods, the visiting
12 committee shall comprise educators who are familiar with, and
13 receptive to, evidence bearing on the educational quality and
14 accomplishments of those methods.

15 (e) The standards and procedures utilized by the ~~council~~ *bureau*
16 shall not unreasonably hinder educational innovation and
17 competition.

18 (f) Each institution or instructional program offering education
19 for entry into a health care profession in which the provider has
20 primary care responsibilities shall offer that education within a
21 professional degree program ~~which~~ *that* shall be subject to
22 approval by the ~~council~~ *bureau* pursuant to this section.

23 (g) (1) If an institution is not operating in California when it
24 applies for approval to operate for itself or a branch or satellite
25 campus, the institution shall file with its application an operational
26 plan establishing that the institution will satisfy the minimum
27 standards set forth in subdivision (a) of Section 94900. The
28 operational plan also shall include a detailed description of the
29 institution's program for implementing the operational plan,
30 including proposed procedures, financial resources, and the
31 qualifications of owners, directors, officers, and administrators
32 employed at the time of the filing of the application. The ~~council~~
33 *bureau* may request additional information to enable the ~~council~~
34 *bureau* to determine whether the operational plan and its proposed
35 implementation will satisfy these minimum standards.

36 (2) If the ~~council~~ *bureau* determines that the operational plan
37 satisfies the minimum standards described in subdivision (a) of
38 Section 94900, that the institution demonstrates that it will
39 implement the plan, and that no ground for denial of the
40 application exists, the ~~council~~ *bureau* shall grant a temporary

1 approval to operate, subject to any restrictions the ~~council~~ *bureau*
2 reasonably deems necessary to ensure compliance with this
3 chapter, pending a qualitative review and assessment as provided
4 in subdivisions (a) and (b) of Section 94900. The ~~council~~ *bureau*
5 shall inspect, pursuant to subdivision (a) of Section 94901, the
6 institution, or branch or satellite campus if approval is sought for
7 that campus between 90 days and 180 days after operation has
8 begun under the temporary approval to operate. Following receipt
9 of the visiting committee's or the ~~council~~ *bureau* staff's report, the
10 ~~council~~ *bureau* shall act as provided in paragraph (1), (2), or (3)
11 of subdivision (c).

12 (h) If at any time the ~~council~~ *bureau* determines that an
13 institution has deviated from the standards for approval, the
14 ~~council~~ *bureau*, after identifying for the institution the areas in
15 which it has deviated from the standards, and after giving the
16 institution due notice and an opportunity to be heard, may place the
17 institution on probation for a prescribed period of time, not to
18 exceed 24 calendar months. During the period of probation, the
19 institution shall be subject to special monitoring. The conditions
20 for probation may include the required submission of periodic
21 reports, as prescribed by the ~~council~~ *bureau*, and special visits by
22 authorized representatives of the ~~council~~ *bureau* to determine
23 progress toward total compliance. If, at the end of the probationary
24 period, the institution has not taken steps to eliminate the cause or
25 causes for its probation to the satisfaction of the ~~council~~ *bureau*,
26 the ~~council~~ *bureau* may revoke the institution's approval to award
27 degrees and provide notice to the institution to cease its operations.

28 (i) An institution may not advertise itself as an approved
29 institution unless each degree program offered by the institution
30 has been approved in accordance with the requirements of this
31 section. The ~~council~~ *bureau* shall review all operations of the
32 institution, pertaining to California degrees, both within and
33 outside of California. The ~~council~~ *bureau* may conduct site visits
34 outside of California, including the institution's foreign
35 operations, when the ~~council~~ *bureau* deems these visits to be
36 necessary. The institution shall be responsible for the expenses of
37 the visiting team members including the ~~council's~~ *bureau's* staff
38 liaison. The ~~council~~ *bureau* may authorize any institution
39 approved to issue degrees under this section to issue certificates for

1 the completion of courses of study that are within the institution's
2 approved degree-granting programs.

3 (j) An institution shall not offer any educational program or
4 degree title that was not offered by the institution at the time the
5 institution applied for approval to operate, and shall not offer any
6 educational program or degree title at a campus that had not
7 offered the program or degree title at the time the institution
8 applied for approval to operate that campus, unless the ~~council~~
9 *bureau* first approves the offering of the program or degree title
10 after determining that it satisfies the minimum standards
11 established by this section.

12 *SEC. 8.* Section 94905 of the Education Code is amended to
13 read:

14 94905. (a) (1) Any non-WASC regionally accredited
15 institution, as defined in Section 94740.5, that is ~~approved by the~~
16 ~~bureau to operate at the time of the issuance of a degree may issue~~
17 *incorporated in another state and maintains its accredited status*
18 *throughout the period of a student's course of study, and that is*
19 *approved by the bureau to operate, may issue* degrees, diplomas,
20 or certificates. Except for continuing education programs and
21 programs that are exclusively avocational or recreational in
22 nature, accredited public or private postsecondary educational
23 institutions incorporated in another state shall not offer degrees,
24 diplomas, or certificates in California unless they comply with this
25 section.

26 (2) A non-WASC regionally accredited institution approved to
27 operate pursuant to this section, and any and all of its program
28 offerings, are subject to the requirements of Article 13
29 (commencing with Section 94950).

30 (b) The bureau shall not approve a non-WASC regionally
31 accredited institution to issue degrees, diplomas, or certificates
32 pursuant to this section until the bureau has determined that the
33 institution has complied with all of the following requirements:

34 (1) The institution meets the financial responsibility
35 requirements set forth in paragraph (2) of subdivision (a) of
36 Section 94804.

37 (2) The institution's cohort default rate on guaranteed student
38 loans does not exceed 15 percent for the three most recent years,
39 as published by the United States Department of Education.

1 (3) The institution submits to the bureau copies of its most
2 recent Integrated Postsecondary Education Data System Report of
3 the United States Department of Education and its accumulated
4 default rate.

5 (4) The institution pays fees in accordance with Section 94932.

6 (5) The institution has submitted an application to operate for
7 itself or a branch or satellite campus pursuant to Section 94802 or
8 an application for renewal pursuant to Section 94840.

9 (c) A non-WASC regionally accredited institution shall be
10 required to notify the bureau of the addition of a degree, diploma,
11 or certificate program that is not included in the institution's initial
12 or renewal application within 90 days of adding the program. If a
13 non-WASC regional accrediting agency, as defined in Section
14 94740.3, requires approval of the additional degree, diploma, or
15 certificate program, a copy of the certificate of accreditation or
16 approval shall be included with the notice to the bureau, and no
17 additional review or investigation of the program shall be required
18 by the bureau. If the regional accrediting agency does not require
19 approval of the additional degree, diploma, or certificate program,
20 the institution shall include its most recent certificate of
21 accreditation with the notice to the bureau, and no additional
22 review or investigation of the program or institution shall be
23 required by the bureau. Nothing in this subdivision shall be
24 construed to limit the authority of the bureau to investigate student
25 complaints.

26 (d) *A non-WASC regionally accredited institution approved to*
27 *operate pursuant to this section shall be subject to disciplinary*
28 *action by the bureau if the institution loses its accreditation or*
29 *federal financial aid eligibility due to an action taken by a*
30 *non-WASC regional accrediting agency or federal authority.*

31 (e) A non-WASC regionally accredited institution approved to
32 operate pursuant to this section is exempt from the requirements
33 of Sections 94900 and 94901, Article 9 (commencing with Section
34 94915), and Article 9.5 (commencing with Section 94931), *except*
35 *for the applicable financial responsibility requirements referenced*
36 *by paragraph (2) of subdivision (a) of Section 94804.* Any
37 non-WASC regionally accredited institution that is not approved
38 to operate pursuant to this section may apply for approval to
39 operate pursuant to Sections 94900 and 94901.

1 (f) *The bureau shall annually include, in the report it prepares*
2 *pursuant to Section 94995, its findings and recommendations*
3 *relative to institutions that have secured institutional or*
4 *programmatic approval pursuant to this section.*

5 SEC. 9. *Section 94945 of the Education Code is amended to*
6 *read:*

7 94945. (a) The bureau shall assess each institution, *including*
8 *a non-WASC regionally accredited institution, as defined in*
9 *Section 94740.5, except for an institution that receives all of its*
10 *students' total charges, as defined in subdivision (k) of Section*
11 *94852, from third-party payers for the purpose of compliance with*
12 *the provisions of this chapter that are related to the Student Tuition*
13 *Recovery Fund. A third-party payer, for the purposes of this*
14 *section, means an employer, government program, or other payer*
15 *that pays a student's total charges directly to the institution when*
16 *no separate agreement for the repayment of that payment exists*
17 *between the third-party payer and the student. A student who*
18 *receives third-party payer benefits for his or her institutional*
19 *charges is not eligible for benefits from the Student Tuition*
20 *Recovery Fund.*

21 (1) (A) The amount assessed each institution shall be
22 calculated only for those students who are California residents and
23 who are eligible to be reimbursed from the fund. It shall be based
24 on the actual amount charged each of these students for total tuition
25 cost, regardless of the portion that is prepaid, and shall be assessed
26 as tuition is paid or loans are funded on behalf of the student, based
27 upon academic term. The amount of the assessment on an
28 institution shall be determined in accordance with paragraphs (2)
29 and (3).

30 (B) Each institution shall collect the amount assessed by the
31 bureau in the form of a Student Tuition Recovery Fund fee from
32 its new students, and remit these fees to the bureau during the
33 quarter immediately following the quarter in which the fees were
34 collected from the students, or from loans funded on behalf of the
35 students, except that an institution may waive collection of the
36 Student Tuition Recovery Fund fee and assume the fee as a debt
37 of the institution. The student's subsequent disenrollment at the
38 institution shall not relieve the institution of the obligation to pay
39 the fee to the bureau, nor be the basis for refund of the fee to the
40 student. An institution may not charge a fee of any kind for the

collection of the Student Tuition Recovery Fund fee. An institution may refuse to enroll a student who has not paid, or made provisions to pay, the appropriate Student Tuition Recovery Fund fee.

(C) For the purposes of this section, a “new student” means a student ~~that~~ *who signs their his or her* enrollment agreement on or after January 1, 2002. Those students who sign their enrollment agreement prior to January 1, 2002, are not “new students” for purposes of this section, and shall be assessed the Student Tuition Recovery Fund fee in effect prior to January 1, 2002, except that an institution may waive collection of the Student Tuition Recovery Fund fee in effect prior to January 1, 2002. Institutions electing to waive collection of the Student Tuition Recovery Fund fee shall disclose this fact to the student in the enrollment agreement, along with the amount of the fee paid on the student’s behalf to the bureau.

(2) The amount collected from a new student by an institution shall be calculated on the basis of the course tuition paid over the current calendar year, based upon the assessment rate in effect when the student enrolled at the institution, without regard to the length of time the student’s program of instruction lasts. For purposes of annualized payment, a new student enrolled in a course of instruction that is longer than one calendar year in duration shall pay fees for the Student Tuition Recovery Fund based on the amount of tuition collected during the current calendar year.

(3) The assessment made pursuant to this section shall be made in accordance with both of the following:

(A) Each new student shall pay a Student Tuition Recovery Fund assessment for the period of January 1, 2002, to December 31, 2002, inclusive, at the rate of three dollars (\$3) per thousand dollars of tuition paid, rounded to the nearest thousand dollars.

(B) Commencing January 1, 2003, Student Tuition Recovery Fund fees shall be collected from new students at the rate of two dollars and fifty cents (\$2.50) per thousand dollars of tuition charged, rounded to the nearest thousand dollars. For new students signing enrollment agreements between January 1, 2002, and December 31, 2002, inclusive, the assessment rate of three dollars (\$3) per thousand dollars of tuition paid, rounded to the nearest thousand dollars, as provided in subparagraph (A) of this

1 paragraph, shall remain the assessment rate for the duration of the
2 student's enrollment agreement.

3 (4) The bureau may levy additional reasonable special
4 assessments on an institution under this section only if these
5 assessments are required to ensure that sufficient funds are
6 available to satisfy the anticipated costs of paying student claims
7 pursuant to Section 94944.

8 (5) (A) The bureau may not levy a special assessment unless
9 the balance in any account in the Student Tuition Recovery Fund
10 falls below two hundred fifty thousand dollars (\$250,000), as
11 certified by the Secretary of the State and Consumer Services
12 Agency.

13 (B) A special assessment is a surcharge, collected by each
14 institution from newly enrolled students, of up to 100 percent of
15 that institution's regular assessment for four consecutive quarters.
16 The affected student shall pay the surcharge simultaneously with
17 his or her regular quarterly payment to the Student Tuition
18 Recovery Fund.

19 (C) The bureau shall provide at least 90 days' notice of an
20 impending special assessment to each affected institution. This
21 notice shall also be posted on the bureau's Internet Web site.

22 (D) The bureau may apply any special assessment payments
23 that it receives from an institution as a credit toward that
24 institution's current or future obligations to the Student Tuition
25 Recovery Fund.

26 (6) The assessments shall be paid into the Student Tuition
27 Recovery Fund and credited to the appropriate account in the fund,
28 and the deposits shall be allocated, except as otherwise provided
29 for in this chapter, solely for the payment of valid claims to
30 students. Unless additional reasonable assessments are required,
31 no assessments for the degree-granting postsecondary educational
32 institution account shall be levied during any fiscal year if, as of
33 June 30 of the prior fiscal year, the balance in that account of the
34 fund exceeds one million five hundred thousand dollars
35 (\$1,500,000). Unless additional reasonable assessments are
36 required, no assessments for the vocational educational institution
37 account shall be levied during any fiscal year if, as of June 30 of
38 the prior fiscal year, the balance in that account exceeds four
39 million five hundred thousand dollars (\$4,500,000). However,
40 regardless of the balance in the fund, assessments shall be made on

any newly approved institution. Notwithstanding Section 13340 of the Government Code, the moneys so deposited in the fund are continuously appropriated to the bureau for the purpose of paying claims to students pursuant to Section 94944.

(b) The bureau may deduct from the fund the reasonable costs of administration of the tuition recovery program authorized by Section 94944 and this section. The maximum amount of administrative costs that may be deducted from the fund, in a fiscal year, shall not exceed one hundred thousand dollars (\$100,000) from the degree-granting postsecondary educational institution account and three hundred thousand dollars (\$300,000) from the vocational educational institution account, plus the interest earned on money in the fund that is credited to the fund. Prior to the bureau's expenditure of any amount in excess of one hundred thousand dollars (\$100,000) from the fund for administration of the tuition recovery program, the bureau shall develop a plan itemizing that expenditure. The plan shall be subject to the approval of the Department of Finance. Institutions, *including any non-WASC regionally accredited institution, as defined in Section 94740.5*, except for schools of cosmetology licensed pursuant to Article 8 (commencing with Section 7362) of Chapter 10 of Division 3 of the Business and Professions Code and institutions that offer vocational or job training programs, that meet the student tuition indemnification requirements of a California state agency, that secure a policy of surety or insurance from an admitted insurer protecting their students against loss of paid tuition, or that demonstrate to the bureau that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from this section.

(c) Reasonable costs in addition to those permitted under subdivision (b) may be deducted from the fund for any of the following purposes:

(1) To make and maintain copies of student records from institutions that close.

(2) To reimburse the bureau or a third party serving as the custodian of records.

(d) In the event of a closure by any approved institution under this chapter, any assessments that have been made against those institutions, but have not been paid into the fund, shall be

1 recovered. Any payments from the fund made to students on
2 behalf of any institution shall be recovered from that institution.

3 (e) In addition to civil remedies, the bureau may order an
4 institution to pay previously unpaid assessments or to reimburse
5 the bureau for any payments made from the fund in connection
6 with the institution. Before any order is made pursuant to this
7 section, the bureau shall provide written notice to the institution
8 and notice of the institution's right to request a hearing within 30
9 days of the service of the notice. If a hearing is not requested within
10 30 days of the service of the notice, the bureau may order payment.
11 If a hearing is requested, Chapter 5 (commencing with Section
12 11500) of Part 1 of Division 3 of Title 2 of the Government Code
13 shall apply, and the bureau shall have all powers prescribed in that
14 chapter. Within 30 days after the effective date of the issuance of
15 the order, the bureau may enforce the order in the same manner as
16 if it were a money judgment pursuant to Title 9 (commencing with
17 Section 680.010) of Part 2 of the Code of Civil Procedure.

18 (f) In addition to any other action that the bureau may take
19 under this chapter, the bureau may suspend or revoke an
20 institution's approval to operate because of the institution's failure
21 to pay assessments when due or failure to pay reimbursement for
22 any payments made from the fund within 30 days of the bureau's
23 demand for payment.

24 (g) The moneys deposited in the fund shall be exempt from
25 execution and shall not be the subject of litigation or liability on
26 the part of creditors of those institutions or students.

